



TOWN OF WEST HARTFORD

AGENDA ITEM SUMMARY

To: Town Council

From: Matt Hart, Town Manager

Date: July 17, 2018

CC: P. Alair, K. Boneham, M. McGovern, T. Dumais

Subject: Resolution (Hart) Authorizing Acceptance of a Conservation Easement at 243 Steele Road (971)

Background: As Council may recall, Special Development District #139, The Residences at Steele, was recently amended to accommodate an additional 30-unit apartment building in the northwest corner of the property. As part of the review and approval process, the Town Plan and Zoning Commission (TPZ) acting in its capacity as the Inland Wetlands and Watercourses Agency, imposed the following condition of approval for the wetlands permit: "Prior to completion of the work, the Applicant shall submit a Conservation Easement Agreement for the Stormwater detention basin..."

The attached easement agreement has been reviewed by the Town Planner and Corporation Counsel and satisfies the aforementioned TPZ/IWWA's condition. Consequently, staff has prepared the attached resolution for the Council's consideration.

Operational Impact: Staff does not anticipate that the conservation restriction and easement would have any operational impacts on Town.

Financial Impact: Staff does not anticipate that the conservation restriction and easement would have any financial impacts to the Town.

Legal Review: The Corporation Counsel's Office has reviewed the final version of the resolution for its form and legality.

Project Schedule: N/A

Recommendation: In order to comply with the TPZ/IWA condition of approval, staff recommends Council approval of the attached resolution accepting the conservation restriction and easement.

Attachments: Draft Grant of Conservation Restriction and Easement and map.

Resolution Authorizing Acceptance of a Conservation Easement at 243 Steele Road

WHEREAS, the Town Council approved an amendment to Special Development District #139 on February 13, 2018; and

WHEREAS the Plan and Zoning Commission approved an associated inland wetlands and watercourses application (IWW #908-R2-17) on February 5, 2018, but conditioned its approval upon the applicant's submission of a portion of the subject property to a conservation easement; and

WHEREAS the applicant has tendered a draft conservation easement to Town staff; and

WHEREAS the form and substance of said conservation easement have been reviewed and approved by the Town Planner and by Corporation Counsel

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF WEST HARTFORD THAT the Town Manager is hereby authorized to execute a conservation easement, in substantially the form attached hereto, as well as any ancillary documents which may be required to effectuate the completion of said easement.

7/17/18
(Hart)

GRANT OF CONSERVATION RESTRICTION AND EASEMENT

KNOWN ALL MEN BY THESE PRESENTS, the Steele Road, LLC, of the Town of Farmington, State of Connecticut ("Grantor"), for the consideration of One (1) Dollar and other good and valuable consideration received to its full satisfaction of the **TOWN OF WEST HARTFORD**, a municipal corporation having its territorial limited within the County of Hartford and State of Connecticut ("Grantee"), does hereby give, grant, bargain, sell and convey unto the Grantee, its successors and assigns, forever, a perpetual Conservation Restriction and Easement within the terms of C.G.S. Sec. 47-42a in, over, along and across that certain piece or parcel of land situated in the Town of West Hartford (the "Easement Area") and more particularly shown on a map or plan entitled "Easement Map, Depicting Proposed Conservation Restriction Area: Across the property of: Steele Road, LLC, 243 Steele Road, West Hartford, Connecticut, Scale 1" = 40', Date May 3, 2018, Sheet 1 of 1" prepared by Milone & MacBroom, which map or plan is to be recorded in the office of the Town Clerk of West Hartford (the "Map").

PURPOSES

Subject to the Grantor's construction of all work contemplated by the plans and specifications approved in the Amendment to Special Development District #139 adopted by the West Hartford Town Council on February 13, 2018, and further subject to the Exceptions set forth below, the purpose of this document is to have the Easement Area remain in its present natural and open condition in order for it to fulfill its present historic, scenic, vegetative, wildlife and/or hydrological functions and to ensure its continued function as part of the stormwater management system for the Grantor's overall property.

COVENANTS

In furtherance of the foregoing Purposes, the Grantor, for itself, heirs, successors and assigns, makes the following covenants, which covenants shall run with and be binding upon the Easement Area in perpetuity:

1. No buildings, camping accommodations or mobile homes shall be placed or erected upon the Easement Area.
2. No signs, billboards or other such advertising materials, nor structures of any kind or nature will be placed or erected upon, below or above the Easement Area except for those structures which are depicted on the plans and specifications approved in the Amendment to Special Development District #139 adopted by the West Hartford Town Council on February 13, 2018.
3. The topography of the landscape of the Easement Area shall be maintained in its present condition and no topographic changes shall be made, provided that nothing herein shall prevent any changes in the Easement Area that occur as a result of acts of nature. The Grantor shall not be obligated to restore the Easement Area after any such changes except insofar as may be necessary to restore the Easement Area to a state of compliance with the plans and specifications approved in the Amendment to Special Development District #139 adopted by the West Hartford Town Council on February 13, 2018. Topographic changes shall include, without exclusion, cutting of trees (except as may be required by good tree husbandry and maintenance or as may be required as part of any landscaping of the Easement Area, after receiving written approval of the Grantee), filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rocks, or minerals, alteration of natural or existing watercourses or drainage, or the construction and installation of roads, driveways, or utilities, except as provided in the Exceptions set forth below.
4. The Grantor shall not authorize the operation of vehicles, snowmobiles, dune-buggies, motorcycles, mini-bikes, go-carts, all-terrain vehicles, or any other type of motorized vehicle upon the Easement Area, except as provided in the Exceptions set forth below.
5. There shall be no dumping or placing of trash, ashes, leaves (except for those leaves which may accumulate within the easement area

naturally), waste, rubbish, garbage or junk upon the Easement Area. In the event that such materials are placed on the Easement Area, the Grantor, upon notice from the Grantee, will remove said materials within 30 days of such notice.

6. There shall be no storage or placement of any equipment, natural or man-made materials or substances upon the Easement Area.
7. The Grantee shall have the right, at all times, to enter onto the Grantor's property in order to access the Easement Area for purposes of inspection. It is recognized that this right may need to be exercised outside normal business hours during or after periods of inclement weather.

The Grantee, its successors or assigns, does not waive or forfeit the right to take action as may be necessary or required in order to insure compliance with said covenants and/or the purposes of this grant by any prior failure to act.

EXCEPTIONS

The Grantor, with the written consent of the Grantee acting by and through its Town Plan and Zoning Commission and/or its Inland Wetlands and Watercourses Agency, may enter upon the Easement Area to conduct the following activities:

1. Removal of debris, dead trees, or brush for the purpose of promoting safety and aesthetic quality;
2. Pruning and thinning of live trees and brush for the purpose of promoting safety and aesthetic quality;
3. Planting of trees, shrubs, or other vegetation for the purpose of enhancing wildlife or aesthetic quality.

The Grantor shall notify the Grantee by written notice to its Town Planner of an intention to undertake any activity in question. If the Grantee does not give

written notice of objection within thirty (30) days of receipt of Grantor's written request, Grantee's approval shall be deemed to have been given. Grantee's approval of exempted activities may be withheld only upon a reasonable determination by the Grantee that the proposed action would be inconsistent with the purpose of this easement. Consideration shall be given to the manner in which such activity is to be undertaken to ensure no detrimental impact to the natural character of the land. In addition, the wildlife value of brush and dead trees proposed to be removed shall be considered and weighed against the purpose of the request and the stormwater function served by the Easement Area.

The above procedure shall not abrogate the requirement to acquire any permits required by local, state or federal law.

In addition, the Grantor may conduct the following activities upon the Easement Area, without the written consent of the Grantee (and notwithstanding in this Grant of Conservation Restriction to the contrary):

- a. The Grantor may landscape the Easement Area, including without limitation, planting and cutting of grass, and the prudent use of fertilizers, pesticides and other materials normally used in landscaping.
- b. The Grantor may install, or permit the installation of, underground utilities through the Easement Area, provided no trees shall be removed to accommodate any such underground utilities unless such trees are replaced with comparable trees that are acceptable to the Grantee.

Any act for which the Grantor has obtained the approval of, or a permit from, the West Hartford Inland Wetlands and Watercourses Agency, the Town of West Hartford Planning and Zoning Commission, or West Hartford Town Council shall be deemed to be permitted under this easement.

LIMITATION ON RIGHT TO AMEND

Grantor and Grantee may jointly amend this easement, provided that no amendment shall be allowed that will affect the qualification of this easement or the status of the Grantee under any applicable laws including Sections 47-42a through 47-42c of the Connecticut General Statutes, Revision of 1958, as amended, or Section 170(h) of the Internal Revenue Code of 1954, as amended; and any amendment shall be consistent with the purpose of this easement and shall not affect its perpetual duration. Any such amendment shall be recorded in the land records of the Town of West Hartford, Connecticut.

The grant of this easement shall not be construed in any way to give the public the right to enter upon said Easement Area for any purpose whatsoever.

ACCEPTANCE OF EASEMENT

Acceptance of the easement by the Grantee shall be evidenced by a resolution authorizing execution thereof adopted by the West Hartford Town Council.

ZONING REQUIREMENTS

The Grantor shall retain the right to utilize the acreage of the Easement Area as part of the overall area of the Grantor's property as shown on the Map for all purposes relating to zoning.

CONDEMNATION

If said Easement Area, or any part thereof, shall be taken by condemnation, then this easement shall automatically terminate as to that property taken, so that the Grantor, its successors and assigns, may be fully compensated as though this easement had never been granted.

SUCCESSORS AND ASSIGNS

This easement shall be binding upon the Grantor's successors and assigns as owners of the Lots. This easement shall not be assignable by the Grantee and may only be enforced by the Town of South Windsor.

HABENDUM

TO HAVE AND TO HOLD said Easement Area unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor has hereunto set its corporate hand and seal this _____ day of _____, 2018.

Signed, sealed and delivered
in the presence of:

STEELE ROAD, LLC

By: **Farm Glen Management, LLC,**

By _____

Geoffrey W. Sager
Its Manager

THE TOWN OF WEST HARTFORD

By:_____

Matthew Hart
Its Town Manager

STATE OF CONNECTICUT)
) ss:
COUNTY OF HARTFORD)

Personally appeared Geoffrey W. Sager, Manager of Farm Glen Management LLC, manager of Steele Road, LLC, duly authorized signer and sealer of the foregoing Instrument and acknowledge that he executed the same for the purposes therein contained and that the same is his free act and deed, and the free act and deed of said limited partnership, before me.

Court

Commissioner of the Superior

Notary Public

My Commission Expires:_____

STATE OF CONNECTICUT)
) ss:
COUNTY OF HARTFORD)

Personally appeared Matthew Hart, Town Manager of The Town of West Hartford, duly authorized signer and sealer of the foregoing Instrument and acknowledge that he executed the same for the purposes therein contained and that the same is his free act and deed, and the free act and deed of said municipal corporation, before me.

Court

Commissioner of the Superior

Notary Public

My Commission Expires:_____